SHRI G.S. SINGHVI, THE CHIEF JUSTICE
AND
HON'BLE SHRI JUSTICE C.V. NAGARJUNA REDDY
WRIT APPEAL NO. 937 OF 2006
AND
WRIT PETITION NO.10082 OF 2006

BETWEEN

S. Thrimurthy

.....Appellant

And

The Additional Commissioner,
Municipal Corporation of Hyderabad,
Secunderabad

.....Respondent

Counsel for the appellant : Shri Raja Reddy Koneti

Counsel for the respondent : Smt. G. Jyothi Kiran
Standing Counsel for
Municipal Corporation of
Hyderabad

Dated: 15.09.2006

::JUDGMENT::

Per G.S. SINGHVI, CJ

This appeal is directed against interlocutory order dated 25.08.2006 passed by the learned Single Judge in Writ Petition No. 10082 of 2006 whereby he directed Chief Judge, City Small Causes Court, Hyderabad (for short 'the Chief Judge') to hear and decide M.A.No.82 of 2006.

Learned counsel for the appellant argued that the observations made by the learned Single Judge on the issue of tampering with notice issued by the Municipal Corporation of Hyderabad under Section 456 of the Hyderabad Municipal Corporation Act, 1955 are totally uncalled for, and if the same are not struck down, the cause of his client will be seriously prejudiced. He submitted that even though the observations made by the learned Single Judge seem to be tentative, the same are bound to influence the adjudication of the appeal pending before the Chief Judge.

In our opinion, the apprehension expressed by the learned counsel is not well-founded. The very fact that while making observations on the issue of tampering with the notice, the learned Single Judge has designedly used the phrases like 'prima facie' and 'it appears' shows that the opinion expressed by the learned Single Judge is not conclusive and it is for the Chief Judge to dispose of the matter in terms of the direction given in the impugned order.

With the above observations, the appeal is dismissed.

While disposing of the appeal in the manner indicated above, we deem it proper to observe that, in its present format, the writ petition filed by the appellant is not maintainable because the Municipal Corporation of Hyderabad, which is a creature of the statute has not been impleaded as party respondent. Additional Commissioner of Municipal Corporation is only an officer of the Corporation and not the Corporation.

We also deem it proper to take cognizance of the statement made by the learned counsel appearing for Municipal Corporation that the learned Chief Judge has so far not decided the matter in terms of the direction given by the learned Single Judge. In this context, it is sufficient to observe that the learned Chief Judge is duty bound to comply with the direction given by the learned Single Judge. It is not open to the officer to suo motu extend the time fixed by this Court.

At this stage, learned counsel for the appellant made a request that his client may be permitted to withdraw Writ Petition No.10082 of 2006. Though unusual, we accept the request of the learned counsel and dismiss the writ petition as withdrawn.

As a sequel to dismissal of the writ appeal, W.A.M.P.No.1967 of 2006 filed by the appellant for interim relief is also dismissed.

G.S. SINGHVI, CJ

C.V. NAGARJUNA REDDY, J

15.09.2006
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